

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)

Regulation of Prepaid Calling)
Card Services; Arizona Dialtone, Inc.)
Petition For Reconsideration)

WC Docket No. 05-68

EMBARQ'S REPLY COMMENTS IN PARTIAL SUPPORT OF PETITION

The Embarq Local Operating Companies ("Embarq"), hereby respectfully Reply to Comments filed on October 12, 2006 in response to the above-captioned Petition for Reconsideration of Arizona Dialtone, Inc.

Embarq believes the Commission took a good first step in the *Prepaid Calling Card Order*,¹ ordering that "providers of prepaid calling cards that are menu-driven or use IP transport to offer telecommunications services are obligated to pay interstate or intrastate access charges based on the location of the called and calling parties." As Arizona Dialtone points out in its Petition, and as Verizon points out in its Comments², accessing prepaid calling card platforms through locally dialed numbers constitutes an increasing problem for originating LECs, leaving them unable to bill and collect for millions of dollars in originating access charges.

¹ *Regulation of Prepaid Calling Card Services*, 21 FCC Rcd 7290, 7300 (2006)

² Verizon's Comments in Partial Support of Arizona Dialtone's Petition for Reconsideration, WC Docket No. 05-68, filed October 12, 2006 ("Verizon Comments").

Unfortunately, as both of those parties have also pointed out, the *Prepaid Calling Card Order* does not go far enough. It fails to provide the originating LECs with certainty regarding which party in the chain of transactions (e.g., the calling card platform provider, the dialtone LEC, any intermediary LECs, the IXC) to bill for originating access, or the means to discover the identity of that party.

However, Embarq agrees with Verizon that the “alternative proposed remedies put forth by Arizona Dialtone are not, by themselves, sufficient to ensure appropriate billing of access charges on prepaid calling card traffic.”³ Arizona Dialtone’s proposal requires the originating LEC to identify local numbers used to place local calls to a platform for the purpose of making a long distance call and then identify the platform provider that obtained the local number.⁴ None of this information is readily available to the originating LECs.

Assuming, however; that the originating LEC could obtain this information, the originating LEC would then have to track, record, and measure the traffic delivered to the locally dialed number – something that few LEC networks are equipped to do today. Finally, Arizona Dialtone’s proposal requires the originating LEC to bill the calling card provider even though, in

³ Verizon Comments at p. 7.

⁴ Arizona Dialtone proposes that, upon request, the LEC that provided the locally dialed numbers to the calling card provider will identify the customer associated with any given local DID number. Level 3 objects to this proposal and argues that there are other reporting requirements proposed by Arizona Dialtone that will disclose the identity of the customer of the dialtone LEC, although Level 3 does not explain how this would work. As noted above, the other proposed reporting requirements simply will not work – the originating LECs will not know who the calling card platform provider is. Furthermore, Embarq believes Level 3’s objection to having any obligations on the LEC serving the calling card provider (*See*, Comments of Level 3 Communications LLC in Response to Arizona Dialtone’s Petition for Reconsideration, WC Docket No. 05-68, filed October 12, 2006) is disingenuous given Level 3’s active marketing of locally dialed numbers to calling card providers. (*See*, Exhibit F to Arizona Dialtone’s Petition in this proceeding.) Nevertheless, Arizona Dialtone’s proposal is flawed in that it assumes the originating LEC will be able to identify every local number that is being used by calling card providers.

most cases, the originating LEC has no vendor-customer relationship with the calling card provider. In short, Embarq does not believe that Arizona Dialtone's proposal will help ensure that the appropriate and lawful originating access charges are billed and collected.

Rather, Embarq believes Verizon's proposal that the Commission declare that the functionalities used for local-dialed (e.g., DID, ISDN PRI, Centrex lines) platform services constitute Feature Group A access that may only be offered by LECs through access tariffs. The platform provider will be required to order the local dialing functionality through Feature Group A access tariffs subject to industry guidelines and tariff requirements, one of which is to identify the IXC that carries the traffic and is responsible for the payment of originating access charges and another of which is the calculation of PIU factors to jurisdictionalize the traffic routed through the platform and disclosure of same.

This arrangement will provide the originating LECs with the tools necessary to bill and collect the access charges to which they are legally entitled. Obviously, the system will not necessarily be perfect; the system will depend on the LECs providing the local dialing functionality complying with the Feature Group A access requirements. However, the Commission can go a long way toward ensuring compliance by also ordering that any LEC that provides local dialing platform services other than through Feature Group A access services becomes liable for the originating access charges. And finally, in the event that remedy does not stop the problem, the Commission should make clear that originating LECs can block traffic to improperly established local numbers used to reach a platform.⁵

⁵ Obviously, this remedy will only be available in those rare instances where the originating LEC has been able to identify which local numbers are used by calling card providers.

In its Petition, Arizona Dialtone also pointed out that calling card platforms are also accessed through 8YY dialing that is routed over local transmission facilities to a DID number and then, after reaching the platform, routed to another, non-local, destination. However, as with the locally dialed calls discussed above, the originating LEC sees this as a local call and lawful originating access charges are not being billed and collected. Arizona Dialtone, citing to reply comments of Qwest, noted that “it makes no functional difference at all whether such a prepaid call is originated by 1+ dialing or by calling an 8YY toll-free number.”⁶ Accordingly, as with locally dialed calls to prepaid calling card platforms, access charges should apply and the Commission needs to clarify that they in fact do, and clarify the responsible party.

Level 3 however suggests that this problem has largely been eliminated by an SMS software release in June 2005 that allows LECs to better manage the use of the local routing (generally accomplished through the 0110 Carrier Identification Code.)⁷ Level 3 argues that because of that software release and because locally routed 8YY calls may have an impact on other intercarrier compensation issues unrelated to prepaid calling cards, the Commission should take no action at this time, but should defer consideration of locally routed 8YY calls to its comprehensive intercarrier compensation reform proceeding.⁸

Embarq disagrees. While it’s true that the problem with 8YY calls has diminished since the release of the SMS software, the problem has not been eliminated. Significant amounts of originating access charges that lawfully should be imposed are still not being imposed. More significantly, millions of dollars of past access charges remain unbilled and uncollected because

⁶ Qwest Services Corporation Reply Comments, WC Docket 05-68, filed May 16, 2005, at p. 18.

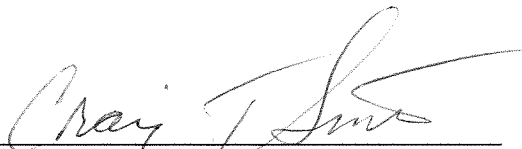
⁷ Comments of Level 3 at p. 8.

⁸ *Id.*, at p. 6.

of uncertainty over the responsible party and which entity has the responsibility to report the information necessary to determine the responsible party.

Respectfully submitted,

Embarq Local Operating Companies

By: 
Craig T. Smith
KSOPJ0401
5454 W. 110th Street
Overland Park, KS 66211
(913) 345-6691

October 23, 2006

CERTIFICATE OF SERVICE

I hereby certify that a copy of Embarq Local Operating Companies' Reply Comments in Partial Support of Petition, WC Docket No. 05-68 was sent by electronic mail or First Class, postage prepaid, U.S. Mail on this 23rd day of October, 2006 to the parties listed below.

ECFS

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

VIA E-MAIL

Lynne Hewitt Engledow
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW, Rm. 5-A361
Washington, DC 20554
lynne.engledow@fcc.gov

Best Copy and Printing, Inc.
Portals II
445 12th Street, SW, Rm. CY-B402
Washington, DC 20554
fcc@bcpiweb.com

Thomas W. Bade
President, Arizona Dialtone, Inc.
7170 W. Oakland
Chandler, AZ 85226
tombade@arizonadialtone.com

U.S. FIRST CLASS MAIL

William P. Hunt, III
Vice President, Public Policy
Level 3 Communications LLC
1025 Eldorado Blvd
Broomfield, CO 80021

John T. Nakahata
Charles D. Breckinridge
Harris, Wiltshire & Grannis LLP
1200 18th Street, N.W., Suite 1200
Washington, D.C. 20036

Michael P. Donahue
Corporate Counsel
Level 3 Communications LLC
2300 Corporate Park Drive, Suite 600
Herndon, Virginia 20171

Jacob S. Farber
Dickstein Shapiro LLC
1825 I Street, N.W.
Washington, DC 20036

Karen Zacharia
Ann P. Rosenthal
VERIZON
1515 North Court House Road
Suite 500
Arlington, VA 22201-2909

Michael S. Tenore
RNK, Inc. d/b/a RNK Telecom
333 Elm Street, Suite 310
Dedham, MA 02026

